

**MINUTES**  
**TIGARD CITY COUNCIL MEETING**  
**July 17, 2001**

**1. WORKSHOP MEETING**

- 1.1 Call to Order – Meeting was called to order at 6:34 p.m.
- 1.2 Roll Call: Mayor Griffith; Councilors Dirksen, Patton, and Scheckla
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None.
- 1.5 Call to Council and Staff for Non Agenda Items: None.

**2. REVIEW AQUIFER STORAGE AND RECOVERY (ASR) PHASE 1 REPORT**

Public Works Director Ed Wegner introduced Utility Manager Dennis Koellermeier. Mr. Koellermeier gave an overview of the ASR, which is one of several alternatives to improve Tigard's water system. The ASR system would use existing wells and source supplies. The feasibility report for ASR is on file with the City Recorder. This report presents the details of what is encompassed by an ASR system.

Mr. Joe Glicker of Montgomery Watson presented information on the ASR. The PowerPoint presentation used by Mr. Glicker is on file with the City Recorder. City Council discussion followed on an ASR system. In response to a question from Councilor Patton, Mr. Glicker responded that the State of Oregon appears to be accepting of ASR systems, but wants some demonstration that such systems will succeed. In response to a question from Councilor Scheckla, Mr. Glicker noted that water could be stored for up to a one- to two-year period. The water does not discolor. Tests are being done to determine if there are leakage issues in the wells identified for the ASR. Water quality tests are also a component of ASR.

Councilor Patton noted in the long term that potentially ten wells would be available for an ASR system in Tigard. An ASR system can be developed in phases so incremental decisions can be made. Public Works Director Wegner confirmed that it would be likely that an ASR program would be phased in over stages based on the need and the financial ability for capital investment. In addition, water resources will continue to be explored with the City of Portland and the Joint Water Commission. There was discussion about how much water the ASR could provide. For four to six million gallons per day, approximately ten wells would be needed.

Council discussed current water needs and the alternatives of how and when to buy water. Councilor Patton commented that the ASR would give the City some maneuvering room to control costs while providing water to customers. Mr. Wegner

noted that the Intergovernmental Water Board (IWB) has approved Phase 2 of the ASR proposal. Phase 2 will be presented to the City Council next week for approval.

In response to a question from Councilor Scheckla, Mr. Wegner noted that the program to have Tigard residents water every other day (based on the date of the month [odd/even] corresponding to the last digit of their house number [odd/even]) has helped so that there have been no water shortages this summer. Mr. Wegner said that Tigard residents appear to be conserving water all year long and advised that there is less water usage in the City even with new population growth. Councilor Dirksen urged that the Public Works Director keep water conservation communications going out to the citizens and compliment them on the good job they have been doing.

There was discussion on problems experienced by the City of Salem and bacteria growth in stored water. Mr. Glicker advised how this would be addressed in an ASR system.

### 3. REVIEW RIGHT-OF-WAY AND SIDEWALK MAINTENANCE

Public Works Director Ed Wegner introduced this agenda item. Property Manager John Roy reviewed the history of the right-of-way maintenance program noting that maintenance had been addressed through a complaint-driven process over the years. A copy of the Staff Report is on file with the City Recorder.

Mr. Wegner noted that there has been success with notifying property owners of their responsibilities with regard to maintenance of areas along the right of way. Recently, after notice was received, property owners resolved maintenance issues for rights of way along Hall Boulevard and Sattler Street. Mr. Wegner noted that staff was not opposed to providing maintenance along streets such as Durham Road and Sattler Street, but noted the need for consistency. He also said that, if the City maintains Durham Road right-of-way areas, this might trigger requests for maintenance for other streets.

The current staff proposal for a City right-of-way maintenance program covers areas that are adjacent to City properties or properties that are adjacent to steep slopes, ditches, and state and railroad rights of way. The Budget Committee did not approve the proposal for an enhanced right-of-way maintenance program. City Manager Bill Monahan advised that, if an enhanced program is approved by the Council, then the Council would need to determine how the program would be funded.

In response to an inquiry by Councilor Scheckla, Mr. Monahan noted that no agreement with Summerfield residents has been located regarding to maintenance responsibilities of rights of way.

Councilor Dirksen commented that the right-of-way maintenance situation should be reviewed, noting there is no long-term funding for an enhanced right-of-way program within the City. In the shorter term he noted the Council needed to focus on what was affordable.

Mr. Paul Owen, Summerfield Liaison, addressed the City Council. (A copy of Mr. Owen's letter dated July 17, 2001, is on file with the City Recorder.) Mr. Owen noted disappointment with the staff's recommendation, which dealt only with right-of-way maintenance and not the liability concern with regard to the sidewalks. He noted the high use of the sidewalks because of the close proximity to the high school. Mr. Owen requested the City consider maintenance of right of way on fully improved collector streets.

There was discussion on the liability issue with regard to sidewalks. The liability responsibility rests with the landowner abutting the sidewalk.

Mr. Wegner referred to an earlier discussion with the City Council that included the proposal that if a sidewalk was brought up to standard, the City could accept the sidewalk and assume the liability and future repairs. This proposal was not pursued.

City Council discussion followed. Councilor Patton noted she was opposed to continuing the complaint-driven maintenance program used in the past, which was inconsistent, piecemeal, and inequitable. She also opposed maintaining Durham Road specifically citing the need for equitable treatment for other areas in similar circumstances. She said she would have liked to support a citywide enhanced right-of-way maintenance program, but the City does not have the money to do this now given other funding needs and scarce resources. She recommended staff continue an aggressive education campaign advising property owners of their responsibilities to maintain adjacent rights of way. At this time, she said the City should "go back to basics" and to be consistent, which will mean that those who have received maintenance before, will not continue to receive this service.

Councilor Scheckla noted that, in the past, exceptions have been made. He referred to SW North Dakota Street where traffic islands and diverters were constructed at the request of those who lived in that area.

Councilor Scheckla noted that he liked the compromise position suggested by Paul Owen, which was to have the City recognize that the sidewalks, curbs, and streets, were designed and built by the City of Tigard and the City would therefore be responsible for the maintenance, repair, and liability for said improvements. If the City agreed to the above, then Summerfield would agree to maintain the 15-foot planter strip as it is now without liability.

Councilor Dirksen noted that the maintenance of right of way is a luxury that the City could not afford at this time. He advised that he thinks the sidewalk issue is separate from the maintenance of the planting areas along the rights of way. He said he would be willing to consider the City taking over control of the sidewalks that meet City standards and to implement a citywide program for this. After discussion, it was clarified that the sidewalk maintenance Councilor Dirksen was referring to was for those sidewalks along major collectors only.

Mayor Griffith noted that he, too, would have liked to see the enhanced right-of-way maintenance program implemented, but also agreed with the other Councilors that this was more than the City could afford. He concurred that maintenance of the sidewalks along major collectors, once brought up to standards, has some merit. He suggested that he would like to continue to review options about how an enhanced maintenance program could be implemented.

There was discussion on a maintenance fee that might represent an alternative for funding and implementation of an enhanced right-of-way program.

Councilor Patton advised she still had some concerns with providing service for only certain areas.

Mayor Griffith summarized the majority of Council direction with regard to the sidewalk issue which would be for the staff to review the cost of accepting the maintenance of sidewalks (once brought up to City standards) for major collectors for non-commercial (residential areas). He clarified he did not expect staff to prepare a complete inventory of sidewalks indicating those that need to be brought up to standard, but requested a "ballpark" figure about what it would cost the City to maintain sidewalks once they are accepted by the City. City Manager Monahan noted that it had been determined that insurance (liability) costs would be negligible. Homeowners would maintain responsibility to keep sidewalks clear of debris, ice, and snow.

In response to a question from Summerfield resident Paul Hunt whether the City would consider providing maintenance on rights of way (plant areas), Mayor Griffith advised that this would be an item he would like to discuss with Mr. Hunt and Mr. Monahan at an upcoming meeting scheduled for the three of them. Mr. Monahan noted that the City provides contract service to help the City of Durham to maintain its parks, but this is one government entity providing assistance to another government entity. There are restrictions (Associated Oregon Industries) with regard to governments providing services to the private sector.

Council meeting recessed: 8:11 p.m.

Council meeting reconvened: 8:20 p.m.

4. REVIEW POTENTIAL AMENDMENTS TO THE NOISE ORDINANCE – TIGARD MUNICIPAL CODE CHAPTER 7.40, ARTICLE IV

Community Development Director Jim Hendryx introduced this agenda item, which is a review by City Council of staff proposals for changes to the current noise ordinance in the Municipal Code. Planning Manager Dick Bewersdorff reviewed the staff report, which is on file with the City Recorder. Mr. Bewersdorff also reviewed a PowerPoint presentation, which is on file with the City Recorder. His presentation included background information, an outline of issues and options, comments on the options, and recommendations by staff.

After discussion on elements of the proposed ordinance, staff and City Council discussed the proposed staff recommendations. City Council agreed that the noise ordinance should be revised. City Council consensus with regard to the amount of proof for a violation of the noise ordinance based on the subjective standard was that at least three witnesses would be required when a violation is reported. One of the witnesses could be a City employee (i.e., a Police or Code Enforcement Officer). A hearing will be conducted for the proposed changes. Staff will return to the City Council in August with the proposed ordinance amendments.

5. REVIEW REQUEST FROM COMMUNITY PARTNERS FOR AFFORDABLE HOUSING FOR FEE REDUCTION REQUEST

Community Development Director Jim Hendryx introduced this agenda item wherein the Community Partners for Affordable Housing (CPAH) is requesting a \$10,000 fee reduction for its new 26-unit Village at Washington Square affordable housing project.

Associate Planner Duane Roberts reviewed the staff report, which is on file with the City Recorder. As part of the staff report, a memorandum from City Attorney Ramis is on file, which addressed waiving or reducing Park System Development Charges. In response to the question as to what concerns should the City have regarding adopting provisions that would allow a waiver of Park System Development Charges for affordable housing projects, City Attorney advised that the risk of litigation by other developers is increased. Other developers could challenge a waiver on statutory equal protection or takings grounds.

City Manager Bill Monahan noted that this request represented an instance where the staff wanted to show to the City Council the full contributions (from CPAH and other agencies) being requested of the City. In a memorandum attached to the Council Agenda Item Summary the current Tigard contributions to affordable housing is outlined.

Council discussion followed with regard to the level of contribution to affordable housing by the City given the City's capacity and responsibility to deliver services.

Mr. Monahan, in response to a question from Councilor Scheckla, noted that the City of Tigard probably does more than most cities in the State of Oregon with regard to contributing to affordable housing. The City of Portland probably does more than the City of Tigard in the way of making such contributions.

Jill Sherman, representing CPAH, addressed the City Council and reviewed CPAH's request for a yearly contribution as well as for the City to have a stated policy on how a fee reduction can be obtained. If a policy were stated, then CPAH would know how they could go about meeting the criteria.

There was discussion on the tax abatement approval that CPAH received from the City of Tigard. It was noted that CPAH makes annual application for this tax abatement to the City of Tigard. In order to be absolved of any property taxes, at least 51% of the taxing entities must approve the abatement. Therefore, CPAH needs to receive tax abatement approval from the Tigard-Tualatin School District, Tualatin Valley Fire & Rescue District and the City of Tigard in order to qualify for the abatement.

Mr. Monahan suggested that if the City Council would want the City to assist CPAH with regard to the SDC fees that the fees could be paid to the SDC fund by the City's general fund. Another suggestion was that if the City Council chooses to pay the SDC fees then the amount funded could be applied as a credit against future requests for funding from CPAH.

Councilor Patton commented that one of the City Council goals is to address affordable housing in the City of Tigard. She noted the need to schedule some time for a long-term policy discussion on what the City's effort will be with regard to affordable housing. At this time, she noted that the issue was to consider the fee waiver request. She advised that the City now addresses affordable housing through its social services program. Councilor Patton said that when the City Council discusses affordable housing, the City Council should also decide whether affordable housing should be part of the social services funding consideration. She referred to recent law enforcement incidents at the Villa La Paz housing development. She said there is a need for CPAH to communicate closely with the City of Tigard and to make efforts to see that the Village at Washington Square project did not develop similar law enforcement problems as has been experienced at Villa La Paz.

Councilor Dirksen noted that he would like to grant the amount requested by CPAH but understood Councilor Patton's concerns. He advised that he viewed this request as being different from social services in that it is a one-time request for a development.

Councilor Scheckla noted that he agreed with Councilor Patton.

Also discussed was the alternative of reducing the amount of assistance requested from the full \$10,000, to this year's social services non-allocated funds (\$4,000).

Mayor Griffith noted that it was difficult to determine "where to draw the line." He said he agreed that a policy needs to be established with regard to affordable housing and social services funding. He also noted that the request from CPAH for this money could be done as a budget adjustment if considered to be an emergency; however, he did not think that this request qualifies as an emergency. He said there is a need to strive for equity for all City of Tigard citizens when allocating resources.

It was determined that an affordable housing strategies discussion would be scheduled tentatively for the September 18, 2001, City Council workshop meeting.

6. REVIEW POTENTIAL AMENDMENTS TO THE TIGARD MUNICIPAL CODE (TMC) – TITLES 1 AND 2

City Recorder Cathy Wheatley reviewed the staff report, which is on file with the City Recorder. Ms. Wheatley reviewed seven proposals to address TMC language changes. Council consensus for these changes were as follows:

- Proposal No. 1 Section 1.01.010 - Title  
This section shall be changed to read as follows: "The Tigard Municipal Code is adopted as the official City Code of the City of Tigard. The Code shall be cited as the Tigard Municipal Code published under general authority of the City Council and maintained as provided in this chapter by the City Recorder."
- Proposal No. 2 Section 1.01.080 – Editing of Code  
This section shall read: "In preparing the codified editions of ordinances for publication and distribution, the City Recorder shall not alter the sense, meaning, effect or substance of any ordinance, but with such limitations, may renumber sections and parts of sections of the ordinances, change the wording of headings, rearrange sections, change reference numbers to agree with renumbered chapters, sections or other parts, substitute the proper subsection, section or chapter or other division numbers, strike out figures or words that are merely repetitious, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors."
- Proposal No. 3 Section 1.01.060 -- Constitutionality  
Attorney Gary Firestone had recommended to the City Recorder that the last clause of Section 1.01.060 of the Tigard Municipal Code be deleted. The clause to be removed reads as follows: "...and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect."

- Proposal No. 4 Section 1.12 Initiative and Referendum.  
Ms. Wheatley reviewed current language of section 1.12, which pertained to initiative and referendum. Council discussed the procedural rules followed by the State of Oregon where, when filed, an initiative petition must contain enough qualified signatures by a certain deadline. This deadline also determines the election date the proposed measure will be submitted to the voters. City Council consensus was that the City Recorder could pursue setting a deadline for petition signatures to be submitted as allowed by law. One option might be to require petitioners name an election date on their petition.
- Proposal No. 5 – Section 2.40 Nominating Procedures.  
After brief discussion, Council determined that no changes to the nominating procedures were to be considered.
- Proposal No. 6 – Section 2.56.010 – Recorder – Appointment and Removal.

Council agreed that the words “City Administrator” should be changed to “City Manager” where appropriate. Council also agreed that the wording should be amended so that the Recorder is appointed and removed upon advice of the City Manager and the consent of the majority of Council. Council also agreed that wording in the last sentence should be removed which refers to the “incumbent” since Loreen Mills was the incumbent at the time this was written and this phrase is no longer relevant.

- Proposal No. 7 – Section 2.60.010 – City Attorney – Appointment and Removal

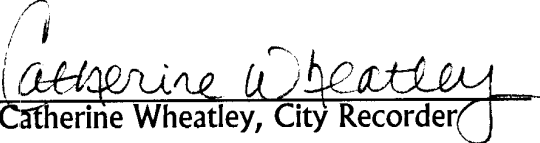
Council agreed to the change in wording so that the City Attorney is appointed and removed with the consent of the majority of Council.

#### ➤ CONTINUATION – STUDY SESSION


- Tigard Blast Parade – There was discussion about Council participation in the upcoming Tigard Blast Parade.
- Metro Meeting – A meeting with Metro representatives is scheduled for September 10 at 6:30 p.m.
- Volunteer Recognition Event – City Manager discussed with the City Council the upcoming volunteer recognition event.

- National League of Cities Conference – Staff advised that the City Council has been registered to attend this conference in December. There was a brief discussion on air travel planning.

7. COUNCIL LIAISON REPORTS: None.
8. NON-AGENDA ITEMS: None.
9. EXECUTIVE SESSION: Canceled.
10. ADJOURNMENT: 10:10 p.m.

  
Catherine Wheatley, City Recorder

Attest:

  
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Mayor, City of Tigard

Date: September 25, 2001

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